IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 187 OF 2007

Shri Raison Almeida,
Major, son of Hector Almeida,
Resident of H.No. 462,
Murida, Cuncolim,
Salcete, Goa. .... Applicant

V/s

1. S T A T E
Through the Public Prosecutor.

2. Police Inspector,
Colva Police Station. .... Respondents

Mr. Arun Bras De Sa, Advocate for the Applicant.

Mr. C.A. Ferreira, Public Prosecutor for the Respondents.

CORAM : N.A. BRITTO, J.

DATE : 23rd AUGUST, 2007

ORAL ORDER:

Heard Shri Arun Bras De Sa, the learned Counsel on behalf of the Applicant and Shri C.A. Ferreira, the learned Public Prosecutor on behalf of the Respondents.

2. The Applicant's application for anticipatory bail has been rejected by the learned Sessions Judge by order dated 13/07/2007. The Applicant was suspected to be involved in Crime No. 63 of 2007 under Section 376, 384 r/w 34 I.P.C., registered at Colva Police Station.

3. Accused No.1 Vinesh Dessai was released on bail by this Court and so also accused No. 3 Kavesh Gosavi. It appears that the present Applicant was identified as accused no.2 by the victim after she was shown his photograph by some persons on 22/06/2007, but subsequently on 24/06/2007, the victim retracted her statement, stating that she had wrongly identified the said unknown accused, as the Applicant.

4. Admittedly, there was no charge under Section 376 I.P.C. levelled by the victim against the said unknown accused and as well as the said accused no.3-Kavesh Gosavi, their involvement being only under Section 384 r/w 34 I.P.C. The applicant has not been arrested till date. In view of the fact that the victim has now retracted her previous identification of the Applicant as A-2 in the said crime, in my view, custodial interrogation of the present Applicant cannot be insisted upon by the Respondent. The Applicant, therefore, would be entitled to be admitted to anticipatory bail. Hence, it is hereby ordered that in the event of the arrest of the Applicant, he shall be released on bail upon execution of the bond of Rs. 10,000/- with one surety in the like amount to the satisfaction of the I.O. and with the condition that the Applicant shall join the investigation by attending Police Station for a period of three days between 9.00 to 1.00 p.m. starting from tomorrow i.e. 24/08/2007.

N.A. BRITTO, J.

NH/-